



Office of the Attorney General
State of Texas

January 30, 1997

DAN MORALES
ATTORNEY GENERAL

Ms. Teresa A. Hunter
Attorney at Law
P.O. Box 420576
Laredo, Texas 78042

OR97-0193

Dear Ms. Hunter:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103504.

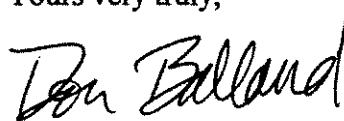
The Laredo Independent School District (the "district"), which you represent, received a request for five categories of information. You state that all of the requested information has been released except for the "1996 Effective Schools Committee Individual Campus Report" concerning the Trevino School of Communications and Fine Arts. You claim that this document is excepted from required public disclosure by sections 552.101 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the document at issue.

You first claim that the campus report is deemed confidential by law, and protected from disclosure by section 552.101. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You contend that the document at issue is confidential under section 21.355 of the Education Code. In the last legislative session, Senate Bill 1 was passed, which added section 21.355 to the Education Code. Section 21.355 provides that, "[a]ny document evaluating the performance of a teacher or administrator is confidential." This office recently interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). In that opinion, this office also concluded that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* The report, however, does not evaluate a specific teacher or administrator. Rather, it examines a particular school in general. After reviewing the submitted material, we do not believe that it is made confidential by the Education Code. Therefore, the district may not withhold the campus report under section 552.101.

You next argue that section 552.111 excepts the information from disclosure. Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. While most of the material in the report pertains to the policy functions of the district, some of the information contained in these documents is purely factual. We have marked those portions of the documents that may be withheld from required public disclosure under section 552.111. The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 103504

Enclosures: Marked documents

cc: Dr. Hector Farias, Jr.
P.O. Box 243
Laredo, Texas 78042
(w/o enclosures)